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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,546	05/25/2001	Jeyhan Karaoguz	41044/SDB/B600	4796
23363	7590	06/27/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			MARTINEZ, DAVID E	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			2182	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/866,546

Applicant(s)

KARAOGUZ ET AL.

Examiner

David E. Martinez

Art Unit

2182

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

KIM HUYNH
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The Examiner respectfully disagrees with the Applicant's arguments. Claims 1-20 stand rejected. Although the Devon reference implements the applicant's invention using IR, it also teaches that it would be feasible to do with the use of RF. The background in the Devon reference does not teach away from the modification suggested by the examiner since Devon is merely disclosing some disadvantages to using RF. However, Devon also discloses many advantages of using RF over IR as well. Just because the reference discloses some disadvantages of RF does not mean the invention cannot be implemented using RF. While the Devon reference expresses a preference for using IR, at the same time it provides the motivation for one of ordinary skill in the art to use RF as well (as shown in the background). It can be inferred from the background that the use of RF or IR might be preferable to one another in different situations depending on what tradeoffs one wants to deal with at the time. Devon does not say RF shouldn't be used over IR. Therefore, it can be concluded that RF systems can be used over IR systems as well to provide advantages such as providing relatively high data rates over long distances and overcoming having to have a 'line of sight' connection type which is a deficiency suffered by IR systems.

With regards to the applicant alleging that the use of the Nevo reference is not obvious because it discloses simultaneous communication, the examiner is relying on the fact that Nevo teaches the use of the BLUETOOTH, HOMERF and 802.11 protocols in his system for the benefit of being able to connect to a broad range of devices that use different protocols. As shown above, the Devon reference is able to be performed using RF, and since the Nevo reference is also directed to RF systems, they can be combined because of their similar architectures. The rejection is based on the combination of the Devon and Nevo references. One skilled in the art would have been motivated to combine Devon and Nevo to constitute competent prior art.

With regards to the Trademarks in the claims, the examiner vacates the 112-2nd paragraph rejections directed to claims 3-8. The BLUETOOTH, HomeRF and 802.11b protocols are satisfactorily defined in specifications found in published standards and only for the versions which were available to the public at the time of the filing of the application.